

THE LAW OFFICES OF

STEVEN L. KESSLER

February 3, 2022

Via ECF

The Honorable Leslie G. Foschio
United States Magistrate Judge
2 Niagra Square
Buffalo, N.Y. 14202

**Re: *Carrano et al. v. ASPCA et al.*
21 CV 1105 WMS(F)**

Dear Magistrate Judge Foschio:

Pursuant to Your Honor's Order, issued following a telephone conference with the parties on January 4, 2022, attached please find a signed Stipulation for the Court's review.

Thank you.

Respectfully submitted,

THE LAW OFFICES OF STEVEN L. KESSLER

By: *Steven L. Kessler*

Encl.

SLK:rmaf

cc: Counsel (*by ECF only*)

TEMPORARY MAILING ADDRESS:

P.O. BOX 100 WYKAGYL STATION NEW ROCHELLE, NEW YORK 10804 TEL: (212) 661-1500
WWW.KESSLERONFORFEITURE.COM e-mail: KESSLERLAWNYC@GMAIL.COM

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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THOMAS CARRANO and GINA CARRANO,

Plaintiffs,

v.

21-cv-1105 (WMS)(LGF)

AMERICAN SOCIETY FOR THE PREVENTION
OF CRUELTY TO ANIMALS, THE HUMANE
SOCIETY OF ROCHESTER AND MONROE
COUNTY FOR THE PREVENTION OF CRUELTY
TO ANIMALS, INC., d/b/a LOLLYPOP FARM,
CHAUTAUQUA COUNTY HUMANE SOCIETY,
CRACKER BOX PALACE, INC,

STIPULATION and
[PROPOSED] ORDER

Defendants.

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WHEREAS, on September 1, 2021, Plaintiffs Thomas Carrano and Gina Carrano (“Plaintiffs”) commenced this action by filing a Summons and Verified Complaint in Supreme Court, Wayne County, New York (“the Action”);

WHEREAS, on September 14, 2021, pursuant to New York CPLR Section 308 and New York Business Corporation Law Section 307, Plaintiffs served the Summons, Verified Complaint and Notice of E-Filing upon Defendants American Society for the Prevention of Cruelty to Animals, the Humane Society of Rochester and Monroe County for the Prevention of Cruelty to Animals, Inc., d/b/a Lollypop Farm, Chautauqua County Humane Society, and Cracker Box Palace, Inc., by

delivering and leaving two copies for each Defendant with the designated agent for service and tendering the required fee at the Office of the Secretary of State, 99 Washington Avenue, Albany, New York 11210;

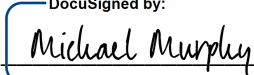
WHEREAS, on October 8, 2021, Defendant the American Society for the Prevention of Cruelty to Animals (“ASPCA”) filed a Notice of Removal of the Action in the United States District Court for the Western District of New York;

WHEREAS, on January 4, 2022, a telephonic conference was held before the Honorable Leslie G. Foschio, Magistrate Judge, following which the Court directed the parties to provide the Court with a Stipulation of Remand within 30 days;

NOW, THEREFORE, it is STIPULATED by the Parties and hereby ORDERED, ADJUDGED and DECREED by the Court as follows:

- A. This Action is hereby Remanded to New York State Supreme Court, Wayne County, for lack of federal jurisdiction;
- B. The dates of all filings or actions taken by any party prior to the entry of this Order shall be preserved following Remand; and
- C. This Action shall be Dismissed in the United States District Court for the Western District of New York without prejudice to any party to the Action with respect to any claims and

defenses previously asserted.

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| <p>LAW OFFICES OF STEVEN L. KESSLER</p> <hr/> <p>Steven L. Kessler, Esq. Attorneys for Plaintiffs P.O. Box 100, Wykagyl Station New Rochelle, New York 10804 KesslerLawNYC@gmail.com stevenkessler@msn.com</p> | <p>BARCLAY DAMON LLP</p> <p>DocuSigned by:  02/03/2022</p> <hr/> <p>Michael J. Murphy, Esq. Brienna L. Christiano, Esq. Attorneys for American Society For The Prevention of Cruelty to Animals 80 State Street Albany, New York 12207 mjmurphy@barclaydamon.com</p> |
| <p>RUPP BAASE PFALZGRAF CUNNINGHAM LLC</p> <hr/> <p>Thomas P. Cunningham Attorneys for Defendant Chautauqua County Humane Society 1600 Liberty Building Buffalo, New York 14202 cunningham@ruppbaase.com federalfiling@ruppbaase.com</p> | <p>HANCOCK ESTABROOK LLP</p> <hr/> <p>John L. Murad, Jr Anneliese Rae Aliasso Attorneys for Defendant Cracker Box Palace 1800 AXA Tower I 100 Madison Street Syracuse, New York 13202 jmurad@hancocklaw.com aaliasso@hancocklaw.com</p> |
| <p>TULLY RINCKEY LLP</p> <hr/> <p>Eugene Welch Attorneys for Humane Society of Monroe County 441 New Karner Rd, Albany, New York 12205 ewelch@tullylegal.com</p> | <p>GOLDBERG SEGALLA</p> <hr/> <p>Molly M. Ryan Attorneys for Defendant The Humane Society of Rochester and Monroe County for the Prevention of Cruelty to Animals, Inc. d/b/a Lollypop Farm 5786 Widewaters Parkway Syracuse, New York 13214 mryan@goldbergsegalla.com</p> |

Dated: Buffalo, New York
January _____, 2022

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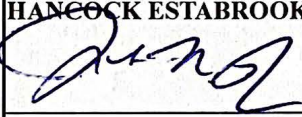
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C. This Action shall be Dismissed in the United States District Court for the Western District of New York without prejudice to any party to the Action with respect to any claims and defenses previously asserted.

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Dated: Buffalo, New York
January _____, 2022

SO ORDERED

Hon. William M. Skretny
U.S.D.J.

S O O R D E R E D

Hon. William M. Skretny
U.S.D.J.